

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Competitive Product Prices  
Global Plus 1C Contracts (MC2012-6)  
Negotiated Service Agreements

Docket No. CP2013-43

PUBLIC REPRESENTATIVE COMMENTS ON POSTAL SERVICE  
NOTICE OF FILING A FUNCTIONALLY EQUIVALENT GLOBAL PLUS 1C  
NEGOTIATED SERVICE AGREEMENT AND APPLICATION FOR NON-PUBLIC  
TREATMENT OF MATERIALS FILED UNDER SEAL

(January 24, 2013)

The Public Representative hereby provides comments pursuant to Order No. 1624.<sup>1</sup> In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Notice of its entering into an additional Global Plus 1C Negotiated Service Agreement.<sup>2</sup> Global Plus 1C Negotiated Service Agreements include prices not of general applicability between the Postal Service and Postal Qualified Wholesalers (PQWs) and other large businesses that offer mailing services to end users for shipping articles via International Priority Airmail, International Surface Air Lift, Global Express Guaranteed, Express Mail International, Priority Mail International, and/or Commercial ePacket Service. Prices offered under the contracts may differ depending on the volume or postage commitments made by the customers. Prices also may differ depending upon when the agreement is signed, because of the incorporation

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<sup>1</sup> PRC Notice and Order Concerning An Additional Global Plus 1C Contract (Contract), January 16, 2013.

<sup>2</sup> Notice of the United States Postal Service of Filing A Functionally Equivalent Global Plus 1C Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, January 14, 2013, (Notice).

of updated costing information. Notice at 5. The Postal Service seeks to add the Global Plus 1C Negotiated Service Agreement (contract) that is the subject of its Notice to the competitive productive list, asserting that it is functionally equivalent to the baseline agreements in CP2012-12 and CP2012-13. *Id.* at 3. It further asserts that the contract is in compliance with 39 U.S.C. §3633 and therefore should be added to the competitive products list as part of the Global plus 1C product grouping. *Id.* at 7.

The Postal Service intends the effective date of the contract to be January 27, 2013. It would remain in effect until the day prior to the date of any change in the published rates that affect the qualifying mail in the contract that may fall within the month of January 2014. Should the date of any change in the published prices that affects the qualifying mail<sup>3</sup> in this agreement not occur until sometime after January 2012, the agreement shall expire on January 31, 2014. The agreement may be terminated sooner as provided for in the terms of the contract.

## **BACKGROUND**

Prices and classifications not of general applicability for Global Plus 1 Contracts were previously established by the Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Global Direct, Global Bulk Economy, and Global Plus Contracts, issued on May 28, 2008 (Governors' Decision No. 08-8). Subsequently, the Postal Regulatory Commission (Commission) determined that the Global Plus 1 contracts filed in Docket Nos. CP2008-9 and CP2008-10, and the Global Plus 1 contracts filed in Docket Nos. CP2009-46 and

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<sup>3</sup> "Qualifying Mail" is defined in the Agreement as "any mail that meets the requirements set forth in Article 3 of the Agreement."

CP2009-47, were functionally equivalent to each other and included them within the Global Plus 1 product on the competitive products list. In addition, the Commission added the contracts filed in Docket Nos. CP2010-67 and CP2010-68 to the competitive product list as a new product, Global Plus 1A.<sup>4</sup> The Commission also added the contracts filed in Docket Nos. CP2011-39 and CP2011-40 to the competitive product list as a new product, Global Plus 1B.<sup>5</sup> The Commission added the contracts filed in Docket Nos. CP2012-12 and CO2012-13 to the competitive product list as a new product, Global Plus 1C.<sup>6</sup> The contracts filed in the latter dockets serve as the baseline agreements for comparison of potentially functionally equivalent agreements under the Global Plus 1C grouping. The Commission determined that individual Global Plus 1C contracts may be included as part of the Global Plus 1C product if they meet the requirements of 39 U.S.C §3633 and if they are functionally equivalent to the previously submitted Global Plus 1C contracts.

## COMMENTS

PRC Order No. 1624 seeks comments on whether the contract is consistent with the requirements of 39 CFR §3015.5 and the policies of sections 3632, 3633, and 3642. The Public Representative has reviewed the Postal Service's Notice, the Global Plus 1C Negotiated Service Agreement filed under seal, the supporting financial model also filed under seal, and all other materials filed with the Notice. The Public Representative has

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<sup>4</sup> PRC Order No. 504, Order Approving Functionally Equivalent Global Plus 1A Contracts Negotiated Service Agreements, Docket Nos. MC2010-26, CP2010-67 and CP2010-68, at 8.

<sup>5</sup> PRC Order No. 622, Order Adding Global Plus 1B to the Competitive Product List and Approving Functionally Equivalent Global Plus 1B Contracts, Docket Nos. MC2011-7, CP2011-39 and CP2011-40, December 23, 2010, at 8.

<sup>6</sup> PRC Order No. 1151, Order Adding Global Plus 1C to the Competitive Product List and Approving Related Global Plus 1C Agreements, Docket Nos. MC2012-6, CP2012-12, and CP2012-13, January 19, 2012, at 7-8.

also carefully reviewed previous filings and Orders related to this Notice as well as the provisions of 39 U.S.C. §3633 and the baseline agreements in MC2012-6, CP2012-12 and CP2012-13.

*Functional Equivalency.* The Postal Service contends that the instant contract is functionally equivalent to the baseline contracts in Dockets CP2012-12 and CP2012-13 in that they share similar cost and market characteristics. *Id.* at 4. The Postal Service, however, does identify a number of differences between the instant contract and the baseline contract, but does not consider them to affect either “the fundamental service the Postal Service is offering or the fundamental structure of the contract.” *Id.* at 5.

The Public Representative has carefully reviewed the Global Plus 1C contract that is the subject of Docket CP2012-43 and the baseline contracts in CP2012-12 and CP2012-13 and considers that they are functionally equivalent. Differences between the instant and baseline contracts do not impact any cost or market characteristics that would differentiate the contracts at any substantive level.

*Statutory Criteria. 39 U.S.C. §3633.* The Postal Service also asserts that the instant contract meets the requirements of 39 U.S.C §3633 (a) that apply to competitive products. *Id.* at 7. The three relevant criteria are that competitive products are not cross-subsidized by market dominant products; cover their attributable costs; and should contribute to the Postal Service’s institutional costs.

The Public Representative has reviewed the financial documentation filed under seal with the Commission and agrees that all three criteria under 39 U.S.C. §3633 are met under this contract *using the financial data provided.* The Public Representative

notes, however, that the Postal Service used cost and volume data from the FY2011 International Cost and Revenue Analysis (ICRA), when similar data from the FY2012 data was filed with the Commission on December 29, 2012 as part of the Postal Service's Annual Compliance Report and therefore available. In his January 17, 2012 filing on the baseline contracts in MC2012-6, CP2012-12 and CP2012-13, the Public Representative in that docket also raised concerns that the Postal Service did not use the most recent financial data to determine cost coverage and compliance with 39 U.S.C. §3633. He suggested that "the Postal Service use cost information from the most recent ICRA in its financial models to develop contract cost estimates for future Global Plus contracts."<sup>7</sup>

The Public Representative is disappointed that the Postal Service did not follow the previous Public Representative's suggestion to use the most up-to-date financial data. The Commission should work with the Postal Service to ensure use of the most recent ICRA data in all future International Negotiated Service Agreements in order to ensure the most accurate cost coverage estimates. With respect to the instant contract, the Public Representative is unable to make a fair, objective determination of whether the contract is compliant with 39 U.S.C. §3633 without an updated financial model using FY2012 data. After reviewing the cost contingencies applied and cost coverages, however, it appears likely that this contract will meet the requirements of 39 U.S.C. §3633.

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<sup>7</sup> Public Representative Comments on Request of the Postal Service to Add Global Plus 1C to the Competitive Products List and Notice of Filing Two Functionally Equivalent Global Plus 1C Negotiated Service Agreements, Docket Nos. MC2012-6, CP2012-12 and CP2012-13, January 17, 2012.

The Public Representative provides these comments for the Commission's consideration.

Respectfully submitted,

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